

04-130 Gms

ORIGINAL

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PETITION UNDER 28 U.S.C. § 2254 FOR WRIT OF
HABEAS CORPUS BY A PERSON IN STATE CUSTODY

United States District Court		District
Name (under which you were convicted): JACK WILLIAM WOLF		Docket or Case No.: 84005481DI
Place of Confinement: DELAWARE CORRECTIONAL CENTER		Prisoner No.: 00093532
Petitioner (include the name under which you were convicted): JACK WILLIAM WOLF		Respondent (authorized person having custody of petitioner): THOMAS WARDEN: CARROLL
The Attorney General of the State of DELAWARE : JANE BRADY		

PETITION

AUG 29 2005

U.S. DISTRICT COURT
DISTRICT OF DELAWARE

- (a) Name and location of court that entered the judgment of conviction you are challenging: **SUPERIOR COURT; New Castle County Courthouse**
500 North King St., Suite 10400, Wilmington, De. 19801-
(b) Criminal docket or case number (if you know): **VN8409078910 3733**
- (a) Date of the judgment of conviction (if you know): **5-24-1985**
(b) Date of sentencing: **9-15-1984**
- Length of sentence: **25 YEARS, 12 YRS. IN Prison, 13 yrs Probation**
- In this case, were you convicted on more than one count or of more than one crime? Yes ☐ No ☒
- Identify all crimes of which you were convicted and sentenced in this case: **1 Count of 2nd degree Rape or Rape 2nd.**
- (a) What was your plea? (Check one)

(1) Not guilty <input checked="" type="checkbox"/>	(3) Nolo contendere (no contest) <input type="checkbox"/>
(2) Guilty <input type="checkbox"/>	(4) Insanity plea <input type="checkbox"/>

 (b) If you entered a guilty plea to one count or charge and a not guilty plea to another count or charge, what did you plead guilty to and what did you plead not guilty to?
Not guilty of Rape 2nd.

FILED

OCT - 3 2005

U.S. DISTRICT COURT
DISTRICT OF DELAWARE

(c) If you went to trial, what kind of trial did you have? (Check one)

Jury ☒ Judge only ☐

7. Did you testify at a pretrial hearing, trial, or a post-trial hearing?

Yes ☒ No ☐

8. Did you appeal from the judgment of conviction?

Yes ☒ No ☐

9. If you did appeal, answer the following:

(a) Name of court: SUPREME COURT OF DELAWARE

(b) Docket or case number (if you know): #266,198.5

(c) Result: DENIED

(d) Date of result (if you know): 6-13-1986

(e) Citation to the case (if you know):

(f) Grounds raised: INEFFECTIVE ASSISTANCE OF COUNSEL.

(g) Did you seek further review by a higher state court? Yes ☒ No ☐

If yes, answer the following:

(1) Name of court: U.S. DISTRICT COURT of Delaware.

(2) Docket or case number (if you know): + Supreme Court

(3) Result: DENIED

(4) Date of result (if you know):

(5) Citation to the case (if you know):

(6) Grounds raised: DNA TESTING AND A NEW TRIAL
BLOOD TYPE SEMEN did NOT MATCH
ME JACK W. WOLF.

(h) Did you file a petition for certiorari in the United States Supreme Court?

Yes ☐ No ☒

If yes, answer the following:

(1) Docket or case number (if you know):

(2) Result: _____

(3) Date of result (if you know): _____

(4) Citation to the case (if you know): _____

10. Other than the direct appeals listed above, have you previously filed any other petitions, applications, or motions concerning this judgment of conviction in any state court?

Yes ☒ No ☐

11. If your answer to Question 10 was "Yes," give the following information:

(a) (1) Name of court: Superior Court, Delaware

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: Rule 61 + State Writ of Habeas Corpus

(5) Grounds raised: BLOOD TYPE semen found on women's underwear does not match me (Jack W. Wolf). also time line does not add up to fact. I was not with this women at the time she says that she was raped. She was with the state police and Doctor between the hours of 5:30 to 6:30 in the evening of 9-13-1984. She says she was being raped from 5:30 to 6:30 in the evening of 9-13-1984. HER RAPE STORY WAS A LIE.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

- (b) If you filed any second petition, application, or motion, give the same information:

(1) Name of court: Superior Court, Wilmington, Delaware

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: Correction of Sentence + 2nd Rule 61

(5) Grounds raised: I have not been given credit for good time on the 12 1/2 years that I have served in Prison. I have earned over 3 years good time, that has not been given to me off this sentence.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(c) If you filed any third petition, application, or motion, give the same information:

(1) Name of court: 3rd Circuit Court, Phill. P.A.

(2) Docket or case number (if you know): _____

(3) Date of filing (if you know): _____

(4) Nature of the proceeding: _____

(5) Grounds raised: DNA Testing and a New Trial.
also time line does not add up to fact.

(6) Did you receive a hearing where evidence was given on your petition, application, or motion? Yes ☐ No ☒

(7) Result: _____

(8) Date of result (if you know): _____

(d) Did you appeal to the highest state court having jurisdiction over the action taken on your petition, application, or motion?

(1) First petition: Yes ☒ No ☐

(2) Second petition: Yes ☒ No ☐

(3) Third petition: Yes ☒ No ☐

(e) If you did not appeal to the highest state court having jurisdiction, explain why you did not:

I was Time Barred on some of my Motions
+ appeals.

12. For this petition, state every ground on which you claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

CAUTION: To proceed in the federal court, you must ordinarily first exhaust (use up) your available state-court remedies on each ground on which you request action by the federal court. Also, if you fail to set forth all the grounds in this petition, you may be barred from presenting additional grounds at a later date.

GROUND ONE: I have not been given credit for good time on 12 1/2 years that I have served in prison.

(a) Supporting facts (Do not argue, or cite law. Just state the specific facts that support your claim.):

My sentence started 9-15-84, 12 years in Prison 13 years Probation. I served over 5 years in Gander Hill, 6 1/2 years in D.C.C. and 1 year in Georgetown Prison a total of 12 1/2 years. I also served 8 years on Parole and Probation. For the 12 1/2 years that I served in Prison I should have received 1392 days good time off of this sentence.

(b) If you did not exhaust your state remedies on Ground One, explain why:

yes, I have filed several times for a correction of sentence. The courts look at it as a sentence modification and deny me, saying that I am time barred.

(c) Direct Appeal of Ground One:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☐ No ☒

(2) If you did not raise this issue in your direct appeal, explain why:

The issue I'm raising is good time owed to me. 1392 days off of this sentence.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: Rule 61 and State Habeas Corpus and Correction of Sentence.
Name and location of the court where the motion or petition was filed: Superior Court and Supreme.

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Docket or case number (if you know): _____

Date of the court's decision: June 28, 2005

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: Supreme Court
P.O. BOX 476 Dover, De. 19903

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available):

The Courts Keep saying time-Barred.

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground One: I havewrote 5 or more letter to the DCC Records Dept.
on this matter.GROUND TWO: I have filed 2 or 3 Correction of Sentence
to Superior and Supreme Courts of Delaware.

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I'm sending you a Docket sheet to support
my claim. The Prison and the Courts will not
send me a time line showing or stating the
amount of time that I have served in Prison
and on Probation and Parole. Every time I request
this information, all they do is send me a copy
of my Docket sheet. It does not show the
amount of time that I have served in Prison.

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on this 25 year sentence. I have served 21 years on this 25 year sentence. I have not been given credit for good time on 12 1/2 years in Prison.

(b) If you did not exhaust your state remedies on Ground Two, explain why: _____

(c) Direct Appeal of Ground Two:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: *they say my*

type changed. This issue did not exist at the time of direct appeal. This issue has developed 21 years after direct appeal.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court?

Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: *Rule 61 and State Habeas Corpus*

Name and location of the court where the motion or petition was filed: *Superior Court and Supreme Court of Delaware.*

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: *same Courts*

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

- (e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Two: I have wrote the Records department 5 or more time's asking them to correct my sentence, and to credit me the good time owed to me.

GROUND THREE: I have filed at least 3 motions for correction of sentence in Superior Court of Del.

- (a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

I served at least 5 years in Mather Hill Prison 6 1/2 years in P.C. in Smyrna Del. and 1 year in Prison in Georgetown Prison. These 13 1/2 accumulated good time have not been taken off my 25 years sentence. 13 1/2 should be taken off my sentence.

- (b) If you did not exhaust your state remedies on Ground Three, explain why: every time I file a motion for correction of sentence, the Courts say that I am time-barred.

The Courts do not even investigate my claims.

- (c) **Direct Appeal of Ground Three:**

- (1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

- (2) If you did not raise this issue in your direct appeal, explain why: This motion keeps asking the same questions over and over again. My answers are the same.

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: I have already answered this question..
Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☐ No ☒

(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: This question has been answered

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) Other Remedies: Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Three: _____

This question has been answered.

GROUND FOUR:

Take the 1392 days off my sentence that is owed to me and release me from this

(a) Supporting facts (Do not argue or cite law. Just state the specific facts that support your claim.):

Prison. I've served 12 1/2 years and I've earned 1392 days good time.

(b) If you did not exhaust your state remedies on Ground Four, explain why:

I have already answered the rest of these questions.

(c) Direct Appeal of Ground Four:

(1) If you appealed from the judgment of conviction, did you raise this issue?

Yes ☒ No ☐

(2) If you did not raise this issue in your direct appeal, explain why: _____

(d) Post-Conviction Proceedings:

(1) Did you raise this issue through a post-conviction motion or petition for habeas corpus in a state trial court? Yes ☒ No ☐

(2) If your answer to Question (d)(1) is "Yes," state:

Type of motion or petition: _____

Name and location of the court where the motion or petition was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(3) Did you receive a hearing on your motion or petition?

Yes ☐ No ☒

(4) Did you appeal from the denial of your motion or petition?

Yes ☒ No ☐

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(5) If your answer to Question (d)(4) is "Yes," did you raise this issue in the appeal?

Yes ☒ No ☐

(6) If your answer to Question (d)(4) is "Yes," state:

Name and location of the court where the appeal was filed: _____

Docket or case number (if you know): _____

Date of the court's decision: _____

Result (attach a copy of the court's opinion or order, if available): _____

(7) If your answer to Question (d)(4) or Question (d)(5) is "No," explain why you did not raise this issue: _____

(e) **Other Remedies:** Describe any other procedures (such as habeas corpus, administrative remedies, etc.) that you have used to exhaust your state remedies on Ground Four: _____

13. Please answer these additional questions about the petition you are filing:

(a) Have all grounds for relief that you have raised in this petition been presented to the highest state court having jurisdiction? Yes ☒ No ☐

If your answer is "No," state which grounds have not been so presented and give your reason(s) for not presenting them: _____

(b) Is there any ground in this petition that has not been presented in some state or federal court? If so, which ground or grounds have not been presented, and state your reasons for not presenting them: _____

14. Have you previously filed any type of petition, application, or motion in a federal court regarding the conviction that you challenge in this petition? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, the issues raised, the date of the court's decision, and the result for each petition, application, or motion filed. Attach a copy of any court opinion or order, if available. _____

15. Do you have any petition or appeal now pending (filed and not decided yet) in any court, either state or federal, for the judgment you are challenging? Yes ☐ No ☒

If "Yes," state the name and location of the court, the docket or case number, the type of proceeding, and the issues raised. _____

16. Give the name and address, if you know, of each attorney who represented you in the following stages of the judgment you are challenging:

(a) At preliminary hearing: Joseph E. Funk

(b) At arraignment and plea: Joseph E. Funk

(c) At trial: Joseph E. Funk

(d) At sentencing: Charles Brandt

(e) On appeal: Charles Brandt

(f) In any post-conviction proceeding: Pro-se

(g) On appeal from any ruling against you in a post-conviction proceeding: Pro-se

17. Do you have any future sentence to serve after you complete the sentence for the judgment that you are challenging? Yes ☐ No ☒

(a) If so, give name and location of court that imposed the other sentence you will serve in the future: _____

(b) Give the date the other sentence was imposed: _____

(c) Give the length of the other sentence: _____

(d) Have you filed, or do you plan to file, any petition that challenges the judgment or sentence to be served in the future? Yes ☐ No ☐

18. TIMELINESS OF PETITION: If your judgment of conviction became final over one year ago, you must explain why the one-year statute of limitations as contained in 28 U.S.C. § 2244(d) does not bar your petition.*

This motion that I am filing is on the good time that I have earned in the past 21 years. I have not been given credit for the 1392 days good time that I have earned by serving 12 1/2 years in Prison.

* The Antiterrorism and Effective Death Penalty Act of 1996 ("AEDPA") as contained in 28 U.S.C. § 2244(d) provides in part that:

- (1) A one-year period of limitation shall apply to an application for a writ of habeas corpus by a person in custody pursuant to the judgment of a State court. The limitation period shall run from the latest of —

(continued...)

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Therefore, petitioner asks that the Court grant the following relief: to be given Credit
for the 1392 days good time that I have earned
for serving 12 1/2 years in Prison, under the old law.
or any other relief to which petitioner may be entitled. ([REDACTED])

Pro-Se Jack W. Wolf
Signature of Attorney (if any)

I declare (or certify, verify, or state) under penalty of perjury that the foregoing is true and correct
and that this Petition for Writ of Habeas Corpus was placed in the prison mailing system on
8-24-05 (month, date, year).

Executed (signed) on 8-24-05 (date).

Jack William Wolf
Signature of Petitioner

*(...continued)

(A) the date on which the judgment became final by the conclusion of direct review or the expiration of the time for seeking such review;

(B) the date on which the impediment to filing an application created by State action in violation of the Constitution or laws of the United States is removed, if the applicant was prevented from filing by such state action;

(C) the date on which the constitutional right asserted was initially recognized by the Supreme Court, if the right has been newly recognized by the Supreme Court and made retroactively applicable to cases on collateral review; or

(D) the date on which the factual predicate of the claim or claims presented could have been discovered through the exercise of due diligence.

(2) The time during which a properly filed application for State post-conviction or other collateral review with respect to the pertinent judgment or claim is pending shall not be counted toward any period of limitation under this subsection.

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If the person signing is not petitioner, state relationship to petitioner and explain why petitioner is not signing this petition. _____

IN FORMA PAUPERIS DECLARATION

United States District Court for Delaware.

[Insert appropriate court]

IN THE SUPERIOR COURT OF THE STATE OF DELAWARE
IN AND FOR NEW CASTLE COUNTY

STATE OF DELAWARE

v.

Jack W. Wolf

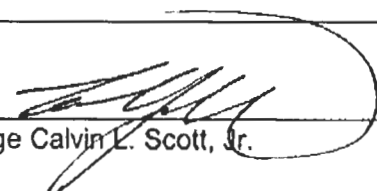
ID: 84005481DI

ORDER

This 28 day of June, 2005, upon consideration of defendant's motion for reduction/modification of sentence, the presentence report/prior record, and the sentence imposed upon the defendant;

NOW, THEREFORE, IT IS ORDERED that defendant's motion for reduction/modification of sentence is DENIED for the following reason(s):

- ☐ The sentence in this case was imposed pursuant to a Plea Agreement between the State and the defendant and signed by the defendant. Superior Court Criminal Rule 11(e)(1)(c).
- ☒ The motion was filed more than 90 days after imposition of the sentence and is, therefore, time-barred. The Court does not find the existence of any extraordinary circumstances.
- ☒ Pursuant to Superior Court Criminal Rule 35(b), the court will not consider repetitive requests for reduction or modification of sentence.
- ☐ The sentence imposed is mandatory and cannot be reduced or suspended.
- ☒ The sentence was imposed after a violation-of-probation hearing was held, and the Court determined the defendant had violated the terms of his probation. The defendant is not amenable to probation at this time.
- ☒ The sentence is appropriate for all the reasons stated at the time of sentencing. No additional information has been provided to the Court which would warrant a reduction or modification of this sentence.
- ☒ Other: Defendant's motion for Appointment
of Counsel is also denied


Judge Calvin L. Scott, Jr.

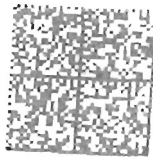
oc: Prothonotary
pc: Defendant
Department of Justice
Presentence

U/M Jack W. Wolf
SB# 00093532 UNIT C-C-1-5

DELAWARE CORRECTIONAL CENTER

1181 PADDOCK ROAD

SMYRNA, DELAWARE 19977



\$ 02.20

Office of the Clerk
United States District Court
844 N. King Street, Lockbox 18
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19801-3570

U.S.M.S.
X-RAY